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Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/134,333    08/14/98    LONGACRE-ANDRE    S    0660-0135-0X

HM12/0831  
OBLON SPIVAK MCCLELLAND MAIER & NEUSTADT  
FOURTH FLOOR  
1755 JEFFERSON DAVIS HIGHWAY  
ARLINGTON VA 22202

EXAMINER

TURNER, S

ART UNIT

PAPER NUMBER

1645

8

DATE MAILED:

08/31/99

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
**09/134,333**

Applicant(s)  
**Longacre-andre**

Examiner  
**Sharon L. Turner, Ph.D.**

Group Art Unit  
**1645**



☒ Responsive to communication(s) filed on 3-29-99

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claims

☒ Claim(s) 1-67 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 1-67 are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been  
☐ received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

Art Unit: 1645

### DETAILED ACTION

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1-48, drawn to a protein, oligomer and vaccinating composition, classified in class 424, subclass 184.
  - II. Claims 49-52 and 64-66, drawn to an antibody and hybridoma, classified in class 530, subclass 387.1.
  - III. Claims 53-57, 59-62 and 67, drawn to DNA vector and vaccine composition, classified in class 435, subclass 320.1.
  - IV. Claim 58, drawn to an organism, classified in class 800, subclass 8.
  - V. Claim 63, drawn to a baculovirus, classified in class 435, subclass 235.1.
2. The inventions are distinct, each from the other because of the following reasons:.
3. Inventions I-V are related as products. The products are distinct each from the other because of different structure and function. For example, the products of Group I are composed of amino acids and function to promote immunity by stimulating antibody production. Group II is composed of L and H chains composed of polypeptide subunits (made by the hybridoma) and is capable of effecting immune responses. Group III is composed of nucleic acids and is capable of hybridization. Group IV is an organism having organ systems and capable of reproduction. Group V is a baculovirus capable of replication in a host cell.

Art Unit: 1645

4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
5. Because these inventions are distinct for the reasons given above and the search required for each of the groups is not required for any other group, restriction for examination purposes as indicated is proper.
6. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(I).
7. Any inquiry of a general nature or relating to the status of this general application should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Papers relating to this application may be submitted to Technology Center 1600, Group 1640 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). Should applicant wish to FAX a response, the current FAX number for Group 1600 is (703) 308-4242.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon L. Turner, Ph.D. whose telephone number is (703) 308-0056. The examiner can normally be reached on Monday-Friday from 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Caputa, can be reached at (703) 308-3995.

Sharon L. Turner, Ph.D.  
August 18, 1999

  
ANTHONY C. CAPUTA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600



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SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
09/134,333	8-14-98	Longene-Andie	0660-0135-04

EXAMINER	
S. Turner	
ART UNIT	PAPER NUMBER
1645	8

DATE MAILED:

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents.


**Sequence Compliance**

1. This application contains sequence disclosures that are encompassed by the definitions for nucleotide and/or amino acid sequences set forth in 37 CFR 1.821(a)(1) and (a)(2). However, this application fails to comply with the requirements of 37 CFR 1.821 through 1.825 for the reason(s) set forth on the attached Notice To Comply With Requirements For Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures.

**Time Period for Response**

2. The time period for response for both the Sequence Requirements and the Restriction/Election is set to run concurrently. A complete response should respond to both the Sequence Requirements and the Restriction/Election.

3. APPLICANT IS GIVEN A ONE MONTH EXTENDABLE PERIOD WITHIN WHICH TO COMPLY WITH THE SEQUENCE RULES, 37 CFR 1.821 - 1.825. Failure to comply with these requirements will result in ABANDONMENT of the application under 37 CFR 1.821(g). Extensions of time may be obtained by filing a petition accompanied by the extension fee under the provisions of 37 CFR 1.136. In no case may an applicant extend the period for response beyond the six month statutory period. Applicant is requested to return a copy of the attached Notice to Comply with the response.

  
ANTHONY C. CAPUTA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600

09/134,333

Application No.: \_\_\_\_\_

**NOTICE TO COMPLY WITH REQUIREMENTS FOR PATENT APPLICATIONS CONTAINING  
NUCLEOTIDE SEQUENCE AND/OR AMINO ACID SEQUENCE DISCLOSURES**

The nucleotide and/or amino acid sequence disclosure contained in this application does not comply with the requirements for such a disclosure as set forth in 37 C.F.R. 1.821 - 1.825 for the following reason(s):

- ☒ 1. This application clearly fails to comply with the requirements of 37 C.F.R. 1.821-1.825. Applicant's attention is directed to these regulations, published at 1114 OG 29, May 15, 1990 and at 55 FR 18230, May 1, 1990.
- ☒ 2. This application does not contain, as a separate part of the disclosure on paper copy, a "Sequence Listing" as required by 37 C.F.R. 1.821(c).
- ☒ 3. A copy of the "Sequence Listing" in computer readable form has not been submitted as required by 37 C.F.R. 1.821(e).
- ☐ 4. A copy of the "Sequence Listing" in computer readable form has been submitted. However, the content of the computer readable form does not comply with the requirements of 37 C.F.R. 1.822 and/or 1.823, as indicated on the attached copy of the marked -up "Raw Sequence Listing."
- ☐ 5. The computer readable form that has been filed with this application has been found to be damaged and/or unreadable as indicated on the attached CRF Diskette Problem Report. A Substitute computer readable form must be submitted as required by 37 C.F.R. 1.825(d).
- ☐ 6. The paper copy of the "Sequence Listing" is not the same as the computer readable form of the "Sequence Listing" as required by 37 C.F.R. 1.821(e).
- ☐ 7. Other: \_\_\_\_\_

**Applicant Must Provide:**

- ☒ An initial or substitute computer readable form (CRF) copy of the "Sequence Listing".
- ☒ An initial or substitute paper copy of the "Sequence Listing", as well as an amendment directing its entry into the specification.
- ☒ A statement that the content of the paper and computer readable copies are the same and, where applicable, include no new matter, as required by 37 C.F.R. 1.821(e) or 1.821(f) or 1.821(g) or 1.825(b) or 1.825(d).

For questions regarding compliance to these requirements, please contact:

For Rules Interpretation, call (703) 308-4216

For CRF Submission Help, call (703) 308-4212

For PatentIn software help, call (703) 308-6856

**PLEASE RETURN A COPY OF THIS NOTICE WITH YOUR RESPONSE**